

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF COLE)	APPEAL NOS. 06-A-2024
COMMUNITY CHURCH from the decision of the)	and 06-A-2025
Board of Equalization of Ada County for tax)	FINAL DECISION
year 2006.)	AND ORDER

EDUCATION EXEMPTION

THESE MATTERS came on for hearing September 7, 2006, in Boise, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Church Administrator Steve Harrell and Pastor/School Superintendent Mark Wood appeared for Appellant. Attorney Sherry Morgan appeared for Respondent Ada County. The appeals are taken from a decision of the Ada County Board of Equalization (BOE) denying exempt status to property described as Parcel Nos. R7745460030 and R7745460040.

The issue on appeal is whether the two subject properties qualify for an exemption from property taxes pursuant to Idaho Code § 63-602E, the education exemption.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The subject parcels (land and improvements) were found fully taxable in 2006 with a total assessed value of \$480,000. The two parcels are adjacent. Appellant requests full exemption on both parcels under Idaho Code § 63-602E. A third Cole Community Church parcel that adjoins subjects, contains classrooms and school offices. The BOE gave an exemption to this third parcel for 2006. Appellant gave multiple examples where the school property was available and used for community events at no charge.

Since 2002, the three parcels have collectively comprised the facilities of Cole Valley Christian Jr./Sr. High. Appellant described the three parcels as functionally and practically connected. In prior years the school property had received exemptions under Idaho Code §§

63-602B or 63-602E, the religious and education exemptions. The school instructs about 340 students at the site. The church is a non-profit religious corporation. The private Christian school is a not-for-profit ministry of the church. The three parcels used to be the campus of Meridian [public] High School. The two subject parcels total a little over 1.5 acres.

In the summer of 2005 construction began on the subject property (two parcels.) On January 1, 2006, a new gymnasium, common area and parking was partially completed with the steel super-structure erected. The two parcels were not entirely, but substantially perimeter fenced for safety.¹ The County had previously exempted the subject property where it was used in connection with parking, storage and common area for the school. Appellant suggested that temporary construction on school property should not result in the denial of exemption under Idaho Code. It was noted schools and churches had been under construction all over the valley recently and Appellant didn't think it made sense that the Legislature intended them to lose their exemptions.

The Board of Equalization was notified of the construction through an annual "short form" application and review process. The construction use in the later half of 2005, and as of the lien date, was considered by Respondent a change of use and an ineligible use for the education exemption. The County reported considering each parcel on its own merits (use and ownership) in determining the tax status.

Respondent stressed the importance of looking at the property status as of January 1, 2006, a point Appellant fully agreed with. The County contended that within the statute's meaning the use of the subject parcel's had changed from the prior year. The new use was

¹A small passageway on one of the subject parcels was reportedly used by students to ingress and egress a classrooms building not located on the subject parcels.

termed “construction use.”

Respondent noted there was little case law specifically pertaining to the Idaho education exemption. The County decision was reportedly led by a strict interpretation pertaining to “use.” It was admitted an exemption grant may be possible under the statutes “held or used exclusively for . . . building or maintenance purposes” language and the County stated it welcomed the Board’s interpretation of the provision. The issue was also put, “. . . does property under construction qualify as property held or used exclusively for education.”

In closing the County observed another exemption, the hospital exemption, provided that taxes must be paid on the land during construction. The Presiding Officer noted from the bench that educating 340 students was providing a tremendous public benefit.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The property tax exemption claims are made under Idaho Code § 63-602E (2006) below. Exemptions from taxation are to be narrowly construed. The subject parcels are clearly part of the Cole Valley School grounds, serving in a direct supporting capacity to the education of a large number of students. The adjacent subject parcels are -- as described by Appellant -- functionally a part of the larger campus unit. The record reveals other campus property uses include furthering charitable or religious purposes. See Idaho Code §§ 63-602C and 63-602B.

§ 63-602E. Property exempt from taxation -- Property used for school or educational purposes.

(1) The following property is exempt from taxation: all property used exclusively for

nonprofit school or educational purposes, property used for charter school purposes, and all property from which no profit is derived and which is *held or used exclusively for endowment, building or maintenance purposes* of schools or educational institutions.

(2) If property is used primarily for nonprofit school purposes or charter school purposes and for business purposes from which a revenue is derived, which revenue is not related to the educational purpose for which the nonprofit school or charter school exists, the assessor shall determine the value of the entire property, of the part used for nonprofit school purposes or charter school purposes, and of the part used for such unrelated business purposes. The portion of the building used for nonprofit school purposes or charter school purposes and for business and administration of the nonprofit school or charter school shall be exempt from taxation. (*Emphasis added.*)

The exemption statute does have ownership and use elements. This case (dispute) centers on the use element and a legal interpretation of the exemption statute. The relevant assessment and lien date for tax year 2006 is January 1, 2006. Idaho Code § 63-205. (It is fitting to note, that on the *annual* review and administration of property tax exemptions, it is the Board's experience that Ada County's process is exemplary.)

On January 1st the subject parcels were undergoing a large construction project. Classes were continuing on an adjacent parcel owned by Appellant. A very small portion of one subject parcel served as a student corridor to classes. It is highly unlikely anyone might suggest on the lien date, that Appellant was constructing anything other than improved school facilities. The older improvements had become obsolete to current needs. In the normal progression of things, the old was being replaced with newer and more suitable and beneficial property. It is not difficult to see the Legislature being aware of such possible events. We can identify no plausible reason why the Legislature might intend an exemption to be lost under the present circumstances. Certainly having three parcels instead of one is not suggested to be an issue in the statute. The school continued unabated at the present site. The construction will likely improve the school and public benefit. As noted by Appellant, the construction is temporary and affecting only a

portion of the total school property. Such construction does not portend a new non-education related use.

Parcels do represent distinct legal “ownerships”, but the distinction does not bare so directly on use. A use consideration must reasonably look to the functional unit dictating the use. Here the statute requires an exclusive use, meaning not a dual or mixed use of the same property. There was not a mixed-use on either parcel. Construction per se is not a proper use descriptor. Fundamentally, a portion of old school property was being replaced with new. This use is reasonably considered to be within the meaning of “held or used . . . for building or maintenance purposes of a school institution.” A proper consideration of use would not *ipso facto* start and end with a tax parcel’s boundary. The term parcel is largely missing from exemption statutes. The stated term is “property.” Here the use element should consider the full boundaries of the school campus and any related facilities.

For the reasons expressed above the Board will reverse the Board of Equalization decision fully exempting subject parcels for 2006.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcels be, and the same hereby is, REVERSED fully exempting both parcels for the 2006 tax year.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 16th day of February , 2007.